Claims 1 – 6, 9 – 12, 15 – 18 and 28 – 31 have been rejected under 35 U.S.C. 101 because, according to the Examiner, the claims are directed to an abstract idea, which is non-statutory subject matter. Applicants respectfully do not agree.

In particular, the Examiner states that "the steps recited in claims 1, 9, 15 and 28 fail to limit the method *to a practical application* such as using the count value of the voice calls to determine the needed bandwidth when the voice calls is of the CBR (constant bit rate) type" (emphasis added).

First, applicants respectfully submit that the requirements of independent claims 1, 9, 15 and 28 are not abstract ideas. For example, claim 1 requires "receiving a call," and "admitting the call...for using a facility" (claim 1, lines 3 – 6). Applicants respectfully submit that these limitations require some form of <u>processing a call</u>. Applicants fail to see how a <u>call</u> is an abstract idea – let alone a particular way of processing a call "for using the facility" (claim 1, lines 5 – 6). Similar requirements are found in independent claims 9 and 15 (e.g., see claim 9, lines 3 – 7; claim 15, lines 3 - 11). Finally, applicants note that claim 28 <u>specifies an apparatus</u> comprising a call classifier, and a processor (claim 31, lines 3, 7) — no method is claimed.

Further, the Examiner cites as a reason that the requirements of these claims fail to limit the method to a practical application "such as using the count value of the voice calls to determine the needed bandwidth when the voice calls is of the CBR (constant bit rate) type." Respectfully, applicants point out to the Examiner that it is not the function of the claims to teach how to practice the invention – but, under 35 U.S.C. 112, second paragraph, to point out and distinctly claim "the subject matter *which applicant regards as his invention*" (emphasis added). As such, applicants are not required to define in the independent claims how to use the count value.

As a result of the above, applicants respectfully submit that independent claims 1, 9, 15, and 28 pass muster as statutory subject matter under 35 U.S.C. 101. Consequently, respective dependent claims 2 – 6, 10 – 12, 16 – 18 and 29 – 31 are also statutory.

Claims 1 – 6 and 9 – 12 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,570,355 issued October 29, 1996 to Dail et al. (the Dail reference). Applicants respectfully do not agree.

Applicants respectfully submit that some of the requirements of independent claims 1 and 9 are not described in, nor suggested by, the Dail reference. For example, nowhere does the Dail reference describe or suggest updating "a count of a number of voice calls currently admitted, when the admitted incoming call is a voice call" (claim 1, lines 7 – 8; claim 9, lines 12 – 13).

Applicants note that the Examiner states that the Dail reference teaches updating a count of a number of voice calls currently admitted (col. 19, lines 46 – 67). Applicants respectfully submit that the Examiner is wrong.

While the Examiner cites col. 19, lines 46 – 67, applicants respectfully note that this citation should also include the *previous* paragraph on lines 28 – 35. As such, the cited portion of the Dail reference states:

The process of FIG. 17 is applied in step 1405 of the process in FIG. 14. It shows how the Statistically Weighted Incremental Bandwidth (SWIB) is determined. First, in step 1702, **the ATM/VBR call** is classified into one of classes 1, 2, . . .,J. Assume the outcome of step 1702 is that the call is of class j for some value of j. Before we proceed further in the flowchart of FIG. 17, we turn to **FIG. 18** for a moment to describe the concept of SWIB.

FIG. 18 shows SWIB values required to admit a new call of a particular class, given that there are already "n" such calls admitted in the system. The SWIB values are shown by the vertical bars, and the values of "n" are shown on the horizontal axis. When "n" is small, such as 1, 2 or 3, the value of SWIB 1801 is equal to the source peak rate 1804. When the number of calls multiplexed together is small, statistical averaging across multiple **ATM/VBR calls** does not yield any Statistical Multiplexing Gain (SMG), and therefore the call can only be admitted with a SWIB value 1801 equal to the peak rate bandwidth 1804. When the number of calls

7

in progress has an intermediate value, such as 12, some SMG is possible, and therefore the call may be admitted with a bandwidth allocation 1802 that is smaller than the peak rate 1804, but larger than the average rate 1805. When the number of calls in progress has a high value, such as 27, significantly high SMG is possible, and therefore the call may be admitted with a bandwidth allocation 1803 that is much smaller than the peak rate 1804 and fairly close to the average rate 1805. The bandwidth determined from FIG. 18 is called SWIB, because it is statistically weighted by the number of calls in progress, and represents the incremental bandwidth that is required to admit a new call while meeting performance requirements specified for the class of calls in consideration. The performance requirements may be specified in terms of ATM cell delay and loss ratio. Higher cell delay and loss ratios may occur when the congestion condition of the system is severe. It may also be noted that the SWIB value corresponding to "n" calls in FIG. 18 also represents the decrease in bandwidth allocation for the class of calls as a whole, when one call terminates out of (n + 1) calls that are currently admitted. (Dail reference, col. 19, lines 28 – 67; ;emphasis added.)

As can be seen from the above – Dail updates a count of ATM/VBR calls – ATM/VBR calls are not voice calls. As the Dail reference states:

ATM calls can be of several types: (a) constant bit rate (ATM/CBR), (b) delay sensitive variable bit rate (ATM/VBR), (c) delay tolerant ATM/VBR, and (d) ATM/contention. An application such as voice or video telephony in ATM form could be categorized as ATM/CBR; an interactive data application is an example of delay sensitive ATM/VBR; a file transfer is an example of delay tolerant ATM/VBR; and the upstream messages for VOD and video games are examples of ATM/contention. (Dail, col. 4, lines 29 – 37; emphasis added.)
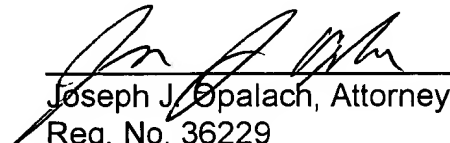
Further, as shown in FIG. 18 of the Dail reference, the number of calls n, relates to ATM/VBR calls in progress – not ATM/CBR calls (e.g., voice calls).

As a result of the above, applicants respectfully submit that independent claims 1 and 9 are not anticipated by the Dail reference. Consequently, respective dependent claims 2 – 6 and 10 – 12 are also not anticipated by the Dail reference.

Claims 15 – 18 and 28 – 31 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Dail reference. Applicants respectfully disagree for the reasons stated above with respect to independent claims 1 and 9. Like these claims, independent claims 15 and 28 require updating a count of voice calls – a requirement neither described in, or suggested by, the Dail reference (claim 15, lines 12 – 13; claim 28, lines 12 – 13). Therefore, applicants respectfully submit that claims 15 – 18 and 28 – 31 are patentable over the Dail reference.

In view of the foregoing, it is respectfully submitted that all remaining claims are now in condition for allowance and reconsideration is requested. If the Examiner believes that prosecution would be expedited by direct discussion, a telephone call to the undersigned would be welcomed.

Respectfully,

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